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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

RSI CORP., dba RESPONSIVE
SYSTEMS COMPANY, a New Jersey
corporation,

Plaintiff,

vs.

INTERNATIONAL BUSINESS
MACHINES CORPORATION; and
DOE DEFENDANTS 1-20,

Defendants.

CASE NO. 5:08-cv-3414 (RMW/HRL)

**[PROPOSED] ORDER GRANTING
DEFENDANT IBM'S MOTION TO
DISMISS OR, IN THE
ALTERNATIVE, STRIKE**

Crtrm.: 6, 4th Floor
Judge: Hon. Ronald M. Whyte
Hearing Date: September 5, 2008
Hearing Time: 9:00 a.m.

1 Upon due consideration of Defendant International Business Machines
2 Corporation's ("IBM") Motion to Dismiss or, in the Alternative, Strike, IBM's
3 Request for Judicial Notice and the exhibits thereto as authenticated by the
4 Declaration of Michael J. Harris and finding good cause therefor,

5 IT IS HEREBY ORDERED that defendant IBM's motion to dismiss is
6 GRANTED. Plaintiff's Complaint fails to state a claim upon which relief can be
7 granted for the reasons stated in defendant IBM's papers. This action is hereby
8 dismissed with prejudice.

9 DATED: San Jose, California, _____

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Hon. Ronald M. Whyte

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Submitted by:

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QUINN EMANUEL URQUHART OLIVER &
19 HEDGES, LLP

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By /s/
21 Shon Morgan

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Attorneys for Defendant International
Business Machines Corporation

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